

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
NANSHING COLOR & CHEMICAL CO., LTD.)
1 I/F Kaiser Estate)
51 Man Yue Street)
Hunghom, Kowloon)
Hong Kong,)
)
Resnondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (**BXA**), having notified Nanshing Color & Chemical Co., Ltd. (Nanshing) of its intention to initiate an administrative proceeding against **Nanshing** pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the **Regulations**),² based on allegations that, on seven separate occasions between on or about January 29, 1997 and on or about July 11, 1997, Nanshing transferred U.S.-origin commodities to Hua **Ko** Electronics Co. Ltd., a

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (**1995**)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (**1996**)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (**1997**)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (**1998**)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 Fed. Reg. 44101 (August 13, **1999**)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & supp. 1999)).

² The violations at issue occurred in 1997. The Regulations governing the violations at issue are found in the 1997 version of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997) and, to the degree to which they pertain to this matter, are substantially the same as the 1999 version.

person denied all U.S. export privileges by Order dated November 29, 1989, in violation of Section 764.2(a) of the Regulations, and;

BXA and Nanshing having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$38,500 is assessed against Nanshing which shall be paid to the U. S. Department of Commerce within 30 days from the date of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1999)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Nanshing will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Nanshing. Accordingly, if Nanshing should fail to pay the civil penalty set forth above, the undersigned will enter an Order under the authority of Section 11 (d) of the Act denying all of Nanshing's export privileges for a period of one year from the date of this Order.

FOURTH, that the proposed Charging Letter, Settlement Agreement, and **this** Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 22 day of December 9 9 ,

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

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NANSHING COLOR & CHEMICAL CO., LTD.)
11/F Kaiser Estate)
51 Man Yue Street)
Hunghom, Kowloon)
Hong Kong,)
)
Resnondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between Nanshing Color & Chemical Co., Ltd. (Nanshing) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),’ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

¹ The violations at issue occurred in 1997. The Regulations governing the violations at issue are found in the 1997 version of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997) and, to the degree to which they pertain to this matter, are substantially the same as the 1999 version.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 Fed. Reg. 44101 (August 13, 1999)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & supp. 1999)).

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified Nanshing of its intention to initiate an administrative proceeding **against** Nanshing pursuant to the Act and the Regulations, based on allegations that, on seven separate occasions between on or about January 29, 1997 and on or about July 11, 1997, Nanshing transferred U.S.-origin **commodities** to Hua Ko Electronics Co. Ltd., a person denied all U.S. export privileges by Order dated November 29, 1989, in violation of Section 764.2(a) of the Regulations;

WHEREAS, Nanshing has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Nanshing fully understands the terms of this Settlement Agreement and the Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Nanshing neither admits nor denies the allegations contained in **the** proposed Charging Letter;

WHEREAS, Nanshing wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement, and;

WHEREAS, Nanshing agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, Nanshing and BXA agree as follows:

1. BXA has jurisdiction over Nanshing, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA and Nanshing agree that the following sanction shall be imposed against **Nanshing** in complete settlement of all alleged violations of the Act and the Regulations set forth in the proposed Charging Letter:

- (a) Nanshing shall be assessed a civil penalty of \$38,500 which shall be paid to the U.S. Department of Commerce within 30 days of the date of entry of an appropriate Order.
- (b) As authorized by Section 1 l(d) of the Act, the timely payment of the civil penalty agreed to in paragraph **2a.** is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Nanshing. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of **Nanshing's** export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. Nanshing agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. **BXA** agrees that, upon entry of the appropriate Order, it will not initiate any administrative proceeding against Nanshing in connection with any violations of the Act or the Regulations arising out of the transactions identified in the proposed Charging Letter.

5. Nanshing understands that BXA will make the proposed Charging Letter, this Settlement Agreement ~~and the~~ appropriate Order, when entered, available to the public.

6. BXA and Nanshing agree that this Settlement Agreement is for settlement purposes only. Therefore, if ~~this~~ Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for **Export Enforcement** pursuant to Section 766.18(a) of the Regulations, BXA and Nanshing agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party **shall** be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

NANSHING COLOR & CHEMICAL
COMPANY, LTD.

BY: Mark D. Menefee
Mark D. Menefee
Director
Office of Export Enforcement

BY: James W.H. Wong
James W.H. Wong
President

Date: 12/20/99

17 DEC 1999
Date: _____



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Nanshing Color & Chemical Co., Ltd.
11/F Kaiser Estate
51 Man Yue Street
Hung Hom, Kowloon
Hong Kong

Attention: James W.H. Wong
President

Dear Mr. wong:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (**BXA**), hereby charges that, as described in detail below, Nanshing Color & Chemical Co., Ltd. (Nanshing) has violated the Export **Administration** Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the **Act**).²

¹ The violations at issue **occurred** in 1997. The Regulations governing the violations at issue are found in the 1997 version of the Code of Federal Regulations. Those Regulations are codified at 15 C.F.R. Parts 730-774 (1997) and, to the degree to which they pertain to this matter, are substantially the same as the 1999 version.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (**1995**)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (**1996**)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (**1997**)), August 13, 1997 (3 C.F.R., 1997 **Comp.** 306 (**1998**)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 *Fed. Reg.* 44101 (August **13, 1999**)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (**1991 & supp.** 1999)).



Facts constituting violations:

Charges 1-7

As is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on seven separate occasions between on or about January 29, 1997 and on or about July 11, 1997, Nanshing transferred U.S.-origin commodities to Hua Ko Electronics Co. Ltd. (**Hua Ko**), a person denied all U.S. export privileges by Order dated November 29, 1989 (hereinafter referred to as “the 1989 Order”). Nanshing’s involvement in these transactions was contrary to the terms of the 1989 Order denying Hua Ko’s export privileges. BXA alleges that, by engaging in conduct prohibited by or contrary to the Act, the Regulations, or any order, license or authorization issued thereunder, Nanshing violated Section 764.2(a) of the Regulations in connection with each of the shipments, for a total of seven violations.

Accordingly, Nanshing is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$10,000 per violation (see Section 764.3(a)(1) of the **Regulations**);³

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Nanshing fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Nanshing is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter.

³ The maximum civil penalty for any violation committed after October 23, 1996 is \$11,000 per violation. See 15 C.F.R. § 6.4(a)(3) (1999).

Accordingly, Nanshing's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 212024022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Nanshing's answer should be served on **BXA** at the address set forth in Section 766.5(b), adding "ATTENTION: Mi-Yong Kim, Esq. " below the address. Ms. Kim may be contacted by telephone at (202) 482-53 11.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

SCHEDULE A

Schedule of Violations

Charge No.	Ship Date (On or About)	Commodity(ies)	Hua Ko/ Purchase Order No.	Nanshing/InvoiceNo.	Payment Receipt No.
1	1/29/97	Acetone	96PI-278	IN01123877	A0071803
2	3/7/97	Hydrofluoric Acid	96PI-278	IN01126028	A0073442
		B.O.E. Superwet/Sulfuric Acid/Phosphoric Acid	96PI-278	IN01126029	A0073442
		Nitric Acid	97PI-021	IN01126030	A0073442
3	3/14/97	B.O.E. Superwet/Glass Etchant	96PI-278	IN01126581	A0073442
		Hydrofluoric Acid	96PI-278	IN01126582	A0073442
		Nitric Acid/Glass Etchant	97PI-021	IN01126583	A0073442
4	5/23/97	Hydrogen Peroxide/Nitric Acid/Glass Etchant	97PI-021	IN01132117	A0076547
		Phosphoric Acid/Hydrogen Peroxide/Isopropyl Alcohol	97PI-118	IN01132118	A0076547
		Isopropyl Alcohol	97PI-118	IN01132187	A0076547
5	5/30/97	Acetone/B.O.E. Superwet/Glass Etchant/Nitric Acid	96PI-102	IN01132762	A0077467
		Phosphoric Acid	97PI-118	IN01132763	A0077467
6	6/25/97	Sulfuric Acid	97PI-021	IN01134568	A0077467
		B.O.E. Superwet/Glass Etchant/ Hydrogen Peroxide	97PI-118	IN01134569	A0077467
7	7/11/97	Nitric Acid/Sulfuric Acid/Acetone	97PI-021	IN01135719	A0077699
		B.O.E. Superwet/Glass Etchant/Hydrogen Peroxide	97PI-118	IN01135720	A0077699
		Hydrofluoric Acid	97PI-118	IN01135721	A0077699